

ORM NEWS

**From the Office of the Deputy Assistant
Secretary for Resolution Management
Department of Veterans Affairs**



September 2002

Many Mourn the Passing of Former VA Secretary

This was the headline of a news release concerning the passing of former VA Secretary Jesse Brown who died August 15, 2002, in Washington, DC, after a long battle with Amyotrophic Lateral Sclerosis (ALS) commonly known as Lou Gehrig's disease. He was buried at Arlington National Cemetery on August 21, 2002.

Mr. Brown served as Secretary from January 1993 to July 1997. He often referred to himself as the "Secretary for Veterans Affairs," but preferred to be simply called "Jesse." He was noted for always "Putting veterans first."

Secretary Principi, in a separate announcement to all VA employees stated, "Jesse Brown was the veteran's veteran – a man of unceasing commitment and advocacy for all who have served their country, especially those who were disabled in service." He went on to say, "He leaves many friends at VA and throughout the veterans community. We are saddened not only by this personal loss but also by the stiling of his staunch voice and good counsel."

Mr. Brown was dedicated to improving the lives of veterans. During his tenure as Secretary he was able to get Congress to increase funding for a variety of veteran's programs that included expanding medical services to veterans, Post-traumatic Stress Disorder (PTSD) issues, and improvements in programs for homeless and female veterans.

Mr. Brown was, himself, a disabled combat veteran who served in Vietnam. He had a long career with the Disabled American Veterans organization before being appointed Secretary by former President Bill Clinton. For those of you who knew him or met him while he was here at VA, you know that he was someone who reached out, not only to veterans, but to the employees of this organization to inspire and lead us in making the VA first in service to veterans and a place where all employees were encouraged to reach their full potential. Mr. Brown's biography is available at www.va.gov/brownbio.htm.

James S. Jones

From the Deputy Assistant Secretary

ORM Stakeholders Meeting



We will be holding our first Office of Resolution Management (ORM) Stakeholders Council meeting on September 4, 2002, in Washington, DC.

The purpose of the Council is to facilitate communication between ORM and its stakeholders and to help ORM meet its customer's needs regarding work place disputes. This will be done by: (1) getting feedback on the services ORM provides; (2) receiving information regarding services ORM stakeholders would like; (3) working together to effect smooth modifications and the implementation of changes needed or required of ORM and those desired or needed by our stakeholders.

The council will consist of the following representatives:

- **Linda Weiss (VISN 2); Francine Fraser (VISN 3); William Lamm (VISN 7); Carlos Lott, Director, Cincinnati VAMC, and Sheila Cullen, Director, San Francisco VAMC, Veterans Health Administration.**
- **Geraldine Johnson, Asst. Deputy Secretary for Management and Sandi Flint, Regional Office Director, Veterans Benefits Administration.**
- **Tom Balsanek, Director, Administrative Services, National Cemetery Administration.**
- **Charles Delobe, Director, Office of Employment Discrimination and Complaint Adjudication.**
- **John Klein, Assistant General Council, Office of the General Council.**
- **Ventris Gibson DAS, Office of Human Resources and Management.**
- **Gary Steinburg, Office of Policy and Planning.**
- **Pat Sheridan or Fred Conway, Office of Dispute Resolution.**

Topics to be covered in this meeting include the history of ORM, workload trends and core services. Discussions will be held on root cause analysis; mediation; EEO Liaison training; early settlement options; environmental assessments and threshold data. We will also discuss how ORM can improve and expand its services to our stakeholders.

Understanding the needs of our stakeholders and improving our services to them are important elements of our "Employer of Choice" commitment to VA.

James S. Jones

Highlights of Regulations and Programs

Settlement Agreement Techniques and Tips Part II

Equal Employment Opportunity Commission (EEOC) policy favors the amicable settlement of discrimination complaints. Agencies are encouraged to seek resolution of EEO complaints through settlement at any time during the administrative or judicial process. Agencies and complainants are urged to be creative in considering settlement terms in order to resolve the dispute. But a poorly written settlement agreement can result in an employee filing a complaint alleging breach of the settlement agreement. In this segment of Settlement Agreement Techniques and Tips, we discuss why settlement agreement terms must be carefully crafted and precisely stated. However, before we get started, here is a reminder of the tips we discussed in our last newsletter.

TIP #1: MAKE SURE THERE IS AN EXCHANGE OF CONSIDERATION.

TIP #2: DO NOT INCLUDE A "NO REPRISAL" CLAUSE.



TIP #3:

MAKE SURE THE PROVISIONS ARE PRECISELY STATED.

Each provision in the settlement agreement must be crafted carefully, and should be precisely stated. Terms should be defined so that the parties clearly understand what they are obligated to do. Ambiguous language is subject to more than one interpretation and can create a magnitude of problems. Complex legal language should be avoided and plain English used.

The time spent in drafting an agreement is time well spent. Careful drafting of agreements can prevent needless breach of settlement agreement allegations. For example, do not state, "the complainant's record shall be purged." Instead, state, "the reprimand of July 15, 1999, shall be removed from the complainant's official personnel file, and all existing records of the action shall be destroyed by September 30, 1999."

Many settlement agreements involve expungement (purging) or rescinding of an agency action. Where a settlement agreement includes an expungement term, the agency should specify where the agency action will be removed from and what happens to the existing records of the action.

INCLUDE TIME FRAMES

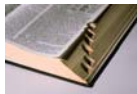


When there are a lack of time frames listed in a settlement agreement two issues arise. One issue relates to how long the agreement continues to be in force and the second relates to the amount of time that a party has to comply with the provision.

In the absence of a clause in the settlement limiting its duration, the agreement continues indefinitely and may only be rescinded based on acts or conduct attributable to the employee. *29CFR 1613.217(a); Morton v. U.S. Postal Service, 10841043, 1212/A9 (1984)*. However, as a general rule, an agency's agreement to provide the complainant with a specific position does not insulate the complainant from subsequent events having an effect on his or her work assignment. Where a settlement agreement is silent about the length of time an agency must place a complainant in a position, EEOC applies a reasonableness standard. *In Elliott v. Postmaster General, 01970474 (1994)*, EEOC has found no breach of settlement agreement where the complainant held the position specified in the agreement for a reasonable amount of time and was ultimately reassigned because of agency restructuring.

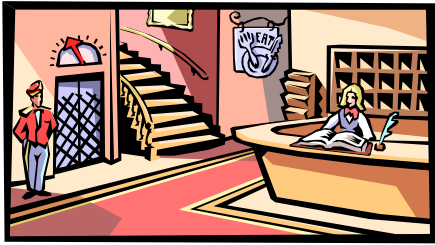
When a settlement agreement does not provide a specific time period within which an agency will execute the terms, EEOC will find that a provision without time periods is generally understood to require compliance within a reasonable amount of time. *Allingham v. Postmaster General, 01991423 (2001)*.

DEFINE TERMS



EEOC has stated that terms that are not defined will be used in usual meaning unless the settlement agreement provides for another definition. For example, where the term "priority consideration" is included in a settlement without further definition, EEOC will interpret the definition to be: The appellant must be considered before any formal action to recruit for the vacancy, and must be given bona fide consideration on (his) own merit, without competition with other potential candidates. Priority consideration does not guarantee selection. *Bishop v. Department of Transportation, EEOC Request No. 05910148 (1991)*.

Gina Suppa (Rusnov), ORM, Office of Policy & Compliance



New Program to Help Travelers Find a Hotel Room Near Their Per Diem

(The following excerpts are taken from a "Federal Diary" news article by Stephen Barr that appeared in the Washington Post on August 15, 2002.)

Federal workers traveling on business soon will be asked to consider staying in hotels that agree to guarantee a specific number of rooms for federal employees at a discounted price.

The new approach, called the Federal Premier Lodging Program, will try to address a common complaint of federal employees who are sent to high-priced cities for business meetings and find few downtown hotels willing to give them a reservation at the government per diem rates.

The first phase of the program has started in 14 cities, which are providing 166 lodging choices. The General Services Administration, which administers the program, plans to expand to three more cities by Sept. 1 and an additional 45 to 50 cities by Feb. 1.

Timothy Burke, director of GSA's travel management policy division, said a regulation to steer federal travelers into the program will soon be issued, but he pointed out that the program will permit federal employees to continue using their common sense when making reservations. Some employees may find less expensive alternatives to the contract hotel or may find that they can save time and avoid taxi fares by selecting a more convenient place to stay, he said.

Under the program, hotels agree to guarantee a block of rooms for federal travelers at a price that is competitive with or lower than federal per diem rates. The standard per diem for lodging is \$55, but rates vary by location and season.

The 14 cities with hotels participating in the program are Washington; Baltimore; New York; Chicago; Denver; Seattle; Portland, Ore.; Montgomery, Ala; Memphis; Huntsville, Ala.; Biloxi, Miss.; Savannah, Ga.; Jacksonville, Fla.; and Charleston, S.C. GSA hopes to expand the program to Atlanta, Miami and Tampa by next month.

For more information on this program go:

<http://www.policyworks.gov/org/main/mt/homepage/mtt/perdiem/plp/PLPFAQS.htm>

To obtain a listing of participating hotels go to the following web site:

<http://policyworks.gov/org/main/mt/homepage/mtt/perdiem/plp/fplpcontractawds.htm>

Terry Washington, External Affairs Program

Four-step Process for Effective Team Brainstorming

Use these four steps as a guide to brainstorm effectively with your team. Using these four steps will ensure that your brainstorming sessions are fruitful.

Brainstorming is a method of shared problem solving in which all members of a group spontaneously contribute ideas.

Step 1 – Define problem and post

Spend ten or fifteen minutes defining the problem. Defining the problem correctly is half the battle, so discuss among the brainstorming team the exact wording of the issue. Then post it where all can see it.



Step 2 – Private brainstorming

Allow for ten to fifteen minutes of time for each team member to brainstorm privately and to jot down their ideas. The quality and quantity of ideas will far exceed those coming from an immediate group brainstorm.

Step 3 – Round-robin sharing

Systematically go around and ask members of the brainstorming team to offer one idea off their list. Go around enough times until everyone has exhausted his or her lists.

No criticizing allowed at this point.

Step 4 – Discuss and decide

Discussion can now take place and decisions are made, if appropriate, through various methods. These could range from interactive voting to the leader making a decision based on team feedback and ideas.

(Source: Brainstorming and Promoting Creative Thinking, VA Learning On-Line)

To find out more about VA Learning On-Line go to:

<http://www.vcampus.com/valo>

Terry Washington, External Affairs Program

Office Notes

Office of the DAS

On July 25, 2002, a special presentation was held in VA Central Office as part of the 50th anniversary of the end of the Korean War.

Vice President Cheney joined the Secretary of Veterans Affairs, Anthony J. Principi in honoring twenty-five Korean War veterans.

The father's of two ORM employees, **Jerry H. Ramsey**, father of **Alvertis Ramsey-Parrish** and **William L. Moxley**, father of **Barbara Scott**, were honored at the ceremony.

It was an extremely touching and emotional ceremony for both families. Major General Han Moon and the Secretary presented the awards. Recipients received a Korean Service Medal, a ribbon, a coin and a plaque.

Mr. Ramsey accepted his awards and Barbara Scott's mother, Ms. Betty Moxley and brother, William A. Moxley, accepted the awards for Mr. Moxley who recently passed away.

Defense Minister Seong Tae Cho wrote, "the Republic of Korea government decided to issue the Republic of Korean War Service Medal to pay tribute to Korean War veterans for their historic endeavors to preserve freedom of the Republic of Korea and the free world."

The Republic of Korea originally offered the Korean War Medal in 1951 to the United Nations forces serving in Korea and adjacent waters. At the time, United States law prohibited the United States military from wearing medals issued by foreign governments. Congress changed that in 1954, but by then most of the United States service members eligible for the medal had returned home.

In 1998, the government of the Republic of Korea renewed its original offer of the Republic of Korea Korean War Service Medal to United

States military personnel. On August 20, 1999, the Department of Defense approved the acceptance and wearing of the medal.

In a letter dated May 13, 2000, to Defense Secretary William S. Cohen, Republic of Korea Defense Minister Seong Tae Cho formally announced that his government would provide the Republic of Korea Korean War Service Medal to eligible United States veterans, or to their surviving next of kin.

Jeana Ware, Budget Analyst, is to be commended for completing the requirements for a "Certificate in Financial Management" from the Graduate School, USDA. This certificate represents a significant achievement in her professional development and attests to her academic abilities and focused efforts. Congratulations Jeana.

Mr. James Jones, Deputy Assistant Secretary for ORM, will speak at the Equal Employment Opportunity Commission's EXCEL Conference in Atlantic City on August 30th. Mr. Jones will also make a presentation to Leadership VA (LVA) on September 12th.

Vancouver Field Office

The Portland VA Medical Center held its first HR (Human Resource) Fairs in July 2002. ORM was invited to participate in these events.

Joyce Bennett, Administrative Officer, set up a booth for ORM at the fair held on July 12, 2002 at the Portland main campus.

Diane Anderson, EEO Specialist, took the lead for the HR Fair held at the Vancouver Division of the Portland VA Medical Center on July 17, 2002. Over 200 employees from the VAMC Portland facilities visited the ORM booths, where information on the EEO complaint process and other ORM services were available. VAMC employees were also asked to complete a customer service survey developed by the Vancouver office. The survey is used to follow-up on training and to gather information on staff outplacement assignments.

Joyce and Diane received a very nice thank you letter from Ms. Patrice Craig, Chief of Human Resource Management Service, for their presentations and participation at both events. Needless to say, we here in Vancouver are very proud and appreciative of the great job performed by both Joyce and Diane at these events.

Joyce Bennett was also invited to serve as a special guest speaker at the Portland/Vancouver VA Women's Equality Day Luncheon on August 26, 2002. Join us in applauding Joyce for this great honor.

The Vancouver Field Office held its summer picnic on August 23, 2002. The newly appointed VISN 20 Director, Dr. Leslie Burger and members of the VISN staff joined us for the special occasion, along with other invited VA employees. The large turnout enjoyed a picnic of barbecued chicken, smoked salmon, hot and spicy ribs, hamburgers, hot dogs and many other summer delicacies.

Los Angeles Field Office

Karen Civitate, EEO Investigator, was recently recognized for her contributions to the SMART program in a letter from Andrea Winkler, SMART Coordinator, Greater Los Angeles Federal Executive Board.

SMART is the shared mediator team of the Federal Executive Board. SMART involves a mentoring program in which each dispute is assigned to a pair of mediators so the trained but less experienced mediator may learn from observing and helping the more experienced senior mediator. Karen has served as junior mediator with two very experienced and effective mediators. The mediator's greatly valued Karen's technical knowledge as an EEO Investigator, since neither of them works in the EEO area. Karen was noted for successfully contributing to the settlement of the two cases in which she participated. Her second case was a very challenging EEOC-referred case, with an upper-GS level complainant and complications from the start. The EEOC had to order the complainant to appear at the mediation session due to lack of response from his attorney. Prior to the mediation, the prospects for settlement appeared dim. All parties seemed pleasantly surprised that the matter ended so positively with the settlement the senior mediator and Karen facilitated. Karen was rated as working very well with the senior mediator and clearly earned the respect and esteem of the attorneys and the parties. Partly as a result of her success, Karen has been asked to serve as senior mediator. In closing Ms. Winkler stated " The Federal Executive Board thanks you for making a fine mediator like Karen available to SMART! She has contributed importantly to the

success of SMART, a premier program of local intergovernmental cooperation!"

Little Rock Field Office

During the period of July 23 and July 24, a facility site visit was conducted at the James H. Quillen VA Medical Center in Mountain Home, Tennessee. The purpose of the visit was to inform employees of the services of ORM and the EEO complaint processing system. Rose M. Eiza, Intake Specialist, and Wanda Ogletree, Investigator, facilitated the training visit. Austin Lewis, Field Manager, paved the way for Rose and Wanda by informing employees of recent changes in EEO law, including the No Fear Act of 2002. During the two-day visit there were six (6) two-hour training sessions conducted for a total of twelve (12) hours. Specific questions were fielded after each session. The courtesy training visit was well received by Dr. Carl Gerber, Director, facility supervisors/managers and employees alike.

ORM Little Rock would like to welcome newcomers, [Deena Johnson](#), Worker-Trainee, [Carol Storey](#), EEO Investigator, and [Randy Garrett](#), EEO Investigator, to their office. [John J. Jones](#), EEO Counselor, was presented with his 15-year pin. [Charlotte Barr](#), EEO Counselor, was recently promoted to Chief Warrant Officer 2, United States Army Reserve, 90th Regional Support Command.

[Mavissa Beach](#), daughter of Anselm Beach, EEO Intake Specialist, recently spent a day with Arkansas' First Lady, Janet Huckabee. Mavissa met Governor Mike Huckabee and Mrs. Huckabee on Memorial Day at the Veterans' Memorial Service held at the Little Rock National Cemetery. Mavissa was invited to the Governor's Mansion after expressing her interest in politics and public service to Mrs. Huckabee. During her day at the governor's mansion, Mavissa attended a program at the Boys and Girls Club in Rose City and sat in on the Governor's and the First Lady's debate preparations. Mavissa was very impressed with the First Lady and enjoyed the experience. Mavissa obviously made a good impression on the First Lady because she was invited back to the Governor's Mansion.

Did You Know?

September 11 Memorial Observance

The U.S. Congress established Sept. 11 as "**Patriot Day**" on Dec. 18, 2001, in a public law calling on federal, state and local governments to observe the date with "appropriate programs and activities."

The Secretary of Veterans Affairs wants all VA offices and facilities to participate in some form of remembrance on September 11.

The nature of these memorial programs will vary from facility to facility and office to office, reflecting the circumstances and work environment of each.

The Office of Public Affairs has issued a package with materials to help you plan a 9-11 memorial program appropriate to your facility. You may already have your own ideas and plans for such a program and you may find portions of this package worth including in your program. You may have yet to plan an event and these materials may provide the structure you are looking for to outline your plans. The package includes two program scripts, a nondenominational prayer and a nondenominational litany.

The White House Commission on the Moment of Remembrance, VA Chaplain Service and military chaplain programs developed these items.

Contact Terry Washington or Tyrone Eddins, ORM External Affairs Program, to obtain a copy of this package.

ORM NEWS is a monthly publication of the Office of Resolution Management. Please E-mail Terry Washington, External Affairs Program Analyst, or Tyrone Eddins, External Affairs Program Manager, to submit your recommendations, suggestions, or comments on the information presented in this newsletter. We can be reached at (202) 501-2800. Back copies of the newsletter can be found on ORM's Web site at <http://www.va.gov/orm/NewsEvents.htm>.